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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,392	01/30/2002	Marietta V. Sperry	T9355.NP	4635

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EXAMINER

HENDERSON, MARK T

ART UNIT PAPER NUMBER

3722

DATE MAILED: 07/08/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

EE

**Office Action Summary**

Application No.

10/066,392

Applicant(s)

SPERRY, MARIETTA V.

Examiner

Mark T Henderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## **DETAILED ACTION**

### **Faxing of Responses to Office Actions**

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing of responses to Office Actions directly into the Group at (703)872-9302 (Official) and (703)872-9303 (for After Finals). This practice may be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1, 6, and 20, it is not understood what is meant by "color aspect".

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Webster's dictionary defines "aspect" as "a position facing a particular direction". How does "color" coincide with "aspect"? Are each of the contents comprising a different "color"?

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moor et al (6,431,779).

Moor et al discloses in Fig. 4, an organizer comprising: a closed position (Fig. 2) and an expanded position (Fig. 4); an expanding plurality of pockets for holding sheets (Col. 3, lines 34 and 35); and wherein the organizer has a front wall (11) and a rear wall (12) which are transparent such that a color aspect of contents of the organizer and be visually appreciated (Col. 3, lines 23-33); and wherein the organizer is made out of polypropylene (Col. 1, lines 61 and 62).

However, Moor et al does not disclose wherein the pockets hold 12 x 12 sheets.

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It would have been an obvious matter of design choice to construct the pockets to hold any desirable sized sheets, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

3. Claims 1-6, 20 and 21, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatano et al (5,741,028) in view of Hatano et al's prior art.

Hatano et al discloses in Fig. 1-3, an expandable transparent organizer comprising: a closed position (Fig. 1) and an open position (Fig. 3); a plurality of first expanding pockets (30) for holding sheets; and wherein the organizer has a front wall (11) and a rear wall (12), which are configured for holding and organizing contents; a second pocket (seen in Fig. 1), which can be seen when the organizer is in a closed position (cover walls are transparent). The method of organizing materials is inherently taught by Hatano et al as modified by Hatano's prior art.

However, Hatano et al does not disclose pockets for holding 12 x 12 sheets; and wherein the organizer is configured such that at least an aspect of contents can be visually appreciated (transparent) through a wall of the container.

Hatano et al's prior art as indicated in Col. 1, lines 10-12, discloses a folder wherein the walls of the container can be transparent and made out of plastic.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hatano et al's organizer to include transparent cover walls as

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taught by Hatano et al's prior art for the purpose of visually appreciating the color aspect of the contents.

In regards to **Claim 1**, it would have been an obvious matter of design choice to construct the pockets to hold any desirable sized sheets, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the walls out of any desirable plastic component such as polypropylene, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

4. Claim 7-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatano et al in view of Hatano's prior art and further in view of Lee et al.

Hatano et al as modified by Hatano et al's prior art discloses an organizer comprising all the elements as claimed in Claim 1, and as set forth above. Hatano et al further discloses that the second pocket (seen in Fig. 1) that can be seen when the organizer is in a closed position (since cover walls are transparent). However, Hatano et al does not disclose: a second and third see-through pocket configured to hold data storage media and computer disks; and wherein the wall is color tinted.

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Lee et al discloses in Fig. 1 and 2, discloses a second pocket for holding a data storage medium (28) and a third pocket for holding a computer disk, wherein the walls (cover) of the pockets are see through.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hatano et al's and Hatano et al's prior art organizer to include a second and a third pocket as taught by Lee et al for the purpose of holding additional information as well as labeling the organizer.

In regards to **Claim 19**, Matters related to the choice of ornamentation producing no mechanical effect or advantage considered to constitute the invention are considered obvious and do not impart patentability, *In re Seid* 73 USPQ 431. Therefore, the wall of the pockets can be any desirable color.

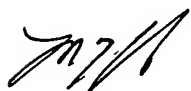
### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

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**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (703)305-0189. The examiner can be reached on Monday - Friday from 7:30 AM to 3:45 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, A. L. Wellington, can be reached on (703) 308-2159. The fax number for TC 3700 is (703)-872-9302. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 3700 receptionist whose telephone number is (703)308-1148.



MTH

June 27, 2003



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